

Calendar No. 79

107TH CONGRESS
1ST SESSION

S. 1171

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 2001

Mr. REID, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2002, for energy and
6 water development, and for other purposes, namely:

1 TITLE I
2 DEPARTMENT OF DEFENSE—CIVIL
3 DEPARTMENT OF THE ARMY
4 CORPS OF ENGINEERS—CIVIL

5 The following appropriations shall be expended under
6 the direction of the Secretary of the Army and the super-
7 vision of the Chief of Engineers for authorized civil func-
8 tions of the Department of the Army pertaining to rivers
9 and harbors, flood control, beach erosion, and related pur-
10 poses.

11 GENERAL INVESTIGATIONS

12 For expenses necessary for the collection and study
13 of basic information pertaining to river and harbor, flood
14 control, shore protection, and related projects, restudy of
15 authorized projects, miscellaneous investigations, and,
16 when authorized by laws, surveys and detailed studies and
17 plans and specifications of projects prior to construction,
18 \$152,402,000, to remain available until expended.

19 CONSTRUCTION, GENERAL

20 For the prosecution of river and harbor, flood control,
21 shore protection, and related projects authorized by laws;
22 and detailed studies, and plans and specifications, of
23 projects (including those for development with participa-
24 tion or under consideration for participation by States,
25 local governments, or private groups) authorized or made

1 eligible for selection by law (but such studies shall not con-
 2 stitute a commitment of the Government to construction),
 3 \$1,570,798,000, to remain available until expended, of
 4 which such sums as are necessary for the Federal share
 5 of construction costs for facilities under the Dredged Ma-
 6 terial Disposal Facilities program shall be derived from
 7 the Harbor Maintenance Trust Fund, as authorized by
 8 Public Law 104–303; and of which such sums as are nec-
 9 essary pursuant to Public Law 99–662 shall be derived
 10 from the Inland Waterways Trust Fund, for one-half of
 11 the costs of construction and rehabilitation of inland wa-
 12 terways projects, including rehabilitation costs for the
 13 Lock and Dam 12, Mississippi River, Iowa; Lock and Dam
 14 24, Mississippi River, Illinois and Missouri; Lock and
 15 Dam 3, Mississippi River, Minnesota; and London Locks
 16 and Dam, and Kanawha River, West Virginia, projects;
 17 and of which funds are provided for the following projects
 18 in the amounts specified:

19 Red River Emergency Bank Protection, AR,
 20 \$4,500,000;

21 Indianapolis Central Waterfront, Indiana,
 22 \$5,000,000;

23 Southern and Eastern Kentucky, Kentucky,
 24 \$2,500,000:

1 *Provided*, That using \$200,000 of the funds provided here-
2 in, the Secretary of the Army, acting through the Chief
3 of Engineers, is directed to conduct, at full Federal ex-
4 pense, technical studies of individual ditch systems identi-
5 fied by the State of Hawaii, and to assist the State in
6 diversification by helping to define the cost of repairing
7 and maintaining selected ditch systems: *Provided further*,
8 That the Secretary of the Army, acting through the Chief
9 of Engineers, is directed to use \$1,300,000 of the funds
10 appropriated herein to continue construction of the navi-
11 gation project at Kaumalapau Harbor, Hawaii: *Provided*
12 *further*, That with \$800,000 of the funds provided herein,
13 the Secretary of the Army, acting through the Chief of
14 Engineers, is directed to continue construction of the
15 Brunswick County Beaches, North Carolina-Ocean Isle
16 Beach portion in accordance with the General Reevalua-
17 tion Report approved by the Chief of Engineers on May
18 15, 1998: *Provided further*, That \$2,500,000 of the funds
19 appropriated herein, the Secretary of the Army, acting
20 through the Chief of Engineers, is directed to use
21 \$500,000 to undertake the Bowie County Levee Project,
22 which is defined as Alternative B Local Sponsor Option,
23 in the Corps of Engineers document entitled Bowie Coun-
24 ty Local Flood Protection, Red River, Texas, Project De-
25 sign Memorandum No. 1, Bowie County Levee, dated

1 April 1997: *Provided further*, That the Secretary of the
2 Army is directed to use \$4,000,000 of the funds provided
3 herein for Dam safety and Seepage/Stability Correction
4 Program to continue construction of seepage control fea-
5 tures at Waterbury Dam, Vermont: *Provided further*, That
6 the Secretary of the Army, acting through the Chief of
7 Engineers, is directed to use \$41,100,000 of the funds ap-
8 propriated herein to proceed with planning, engineering,
9 design or construction of the following elements of the
10 Levisa and Tug Forks of the Big Sandy River and Upper
11 Cumberland River Project:

12 \$4,500,000 for the Clover Fork, Kentucky, ele-
13 ment of the project;

14 \$1,000,000 for the City of Cumberland, Ken-
15 tucky, element of the project;

16 \$1,650,000 for the town of Martin, Kentucky,
17 element of the project;

18 \$2,100,000 for the Pike County, Kentucky, ele-
19 ment of the project, including \$1,100,000 for addi-
20 tional studies along the tributaries of the Tug Fork
21 and continuation of a Detailed Project Report for
22 the Levisa Fork;

23 \$3,850,000 for the Martin County, Kentucky,
24 element of the project;

1 \$950,000 for the Floyd County, Kentucky, ele-
2 ment of the project;

3 \$600,000 for the Harlan County element of the
4 project;

5 \$800,000 for additional studies along tribu-
6 taries of the Cumberland River in Bell County, Ken-
7 tucky;

8 \$18,600,000 to continue work on the Grundy,
9 Virginia, element of the project;

10 \$450,000 to complete the Buchanan County,
11 Virginia, Detailed Project Report;

12 \$700,000 to continue the Dickenson County,
13 Detailed Project Report;

14 \$1,500,000 for the Lower Mingo County, West
15 Virginia, element of the project;

16 \$600,000 for the Upper Mingo County, West
17 Virginia, element of the project;

18 \$600,000 for the Wayne County, West Virginia,
19 element of the project;

20 \$3,200,000 for the McDowell County element of
21 the project:

22 *Provided further,* That the Secretary of the Army, acting
23 through the Chief of Engineers, is directed to continue the
24 Dickenson County Detailed Project Report as generally
25 defined in Plan 4 of the Huntington District Engineer's

1 Draft Supplement to the Section 202 General Plan for
 2 Flood Damage Reduction dated April 1997, including all
 3 Russell Fork tributary streams within the County and spe-
 4 cial considerations as may be appropriate to address the
 5 unique relocations and resettlement needs for the flood
 6 prone communities within the County.

7 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES,
 8 ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MIS-
 9 SSISSIPPI, MISSOURI, AND TENNESSEE

10 For expenses necessary for prosecuting work of flood
 11 control, and rescue work, repair, restoration, or mainte-
 12 nance of flood control projects threatened or destroyed by
 13 flood, as authorized by law (33 U.S.C. 702a and 702g-
 14 1), \$328,011,000, to remain available until expended.

15 OPERATION AND MAINTENANCE, GENERAL

16 For expenses necessary for the preservation, oper-
 17 ation, maintenance, and care of existing river and harbor,
 18 flood control, and related works, including such sums as
 19 may be necessary for the maintenance of harbor channels
 20 provided by a State, municipality or other public agency,
 21 outside of harbor lines, and serving essential needs of gen-
 22 eral commerce and navigation; surveys and charting of
 23 northern and northwestern lakes and connecting waters;
 24 clearing and straightening channels; and removal of ob-
 25 structions to navigation, \$1,833,263,000, to remain avail-
 26 able until expended, of which such sums as become avail-

1 able in the Harbor Maintenance Trust Fund, pursuant to
2 Public Law 99–662, may be derived from that Fund, and
3 of which such sums as become available from the special
4 account established by the Land and Water Conservation
5 Act of 1965, as amended (16 U.S.C. 460l), may be derived
6 from that account for construction, operation, and mainte-
7 nance of outdoor recreation facilities: *Provided*, That of
8 funds appropriated herein, for the Intracoastal Waterway,
9 Delaware River to Chesapeake Bay, Delaware and Mary-
10 land, the Secretary of the Army, acting through the Chief
11 of Engineers, is directed to reimburse the State of Dela-
12 ware for normal operation and maintenance costs incurred
13 by the State of Delaware for the SR1 Bridge from station
14 58+00 to station 293+00 between May 12, 1997 and
15 September 30, 2002. Reimbursement costs shall not ex-
16 ceed \$1,277,000: *Provided*, That the Secretary of the
17 Army is directed to use \$2,000,000 of funds appropriated
18 herein to remove and reinstall the docks and causeway,
19 in kind, at Astoria East Boat Basin, Oregon: *Provided fur-*
20 *ther*, That \$2,000,000 of the funds appropriated herein,
21 the Secretary of the Army, acting through the Chief of
22 Engineers, is directed to dredge a channel from the mouth
23 of Wheeling Creek to Tunnel Green Park in Wheeling,
24 West Virginia.

1 REGULATORY PROGRAM

2 For expenses necessary for administration of laws
3 pertaining to regulation of navigable waters and wetlands,
4 \$128,000,000, to remain available until expended.

5 FORMERLY UTILIZED SITES REMEDIAL ACTION
6 PROGRAM

7 For expenses necessary to clean up contamination
8 from sites throughout the United States resulting from
9 work performed as part of the Nation's early atomic en-
10 ergy program, \$140,000,000, to remain available until ex-
11 pended.

12 GENERAL EXPENSES

13 For expenses necessary for general administration
14 and related functions in the Office of the Chief of Engi-
15 neers and offices of the Division Engineers; activities of
16 the Coastal Engineering Research Board, the Humphreys
17 Engineer Center Support Activity, the Water Resources
18 Support Center, and headquarters support functions at
19 the USACE Finance Center, \$153,000,000, to remain
20 available until expended: *Provided*, That no part of any
21 other appropriation provided in title I of this Act shall
22 be available to fund the activities of the Office of the Chief
23 of Engineers or the executive direction and management
24 activities of the division offices.

1 ADMINISTRATIVE PROVISIONS

2 Appropriations in this title shall be available for offi-
3 cial reception and representation expenses (not to exceed
4 \$5,000); and during the current fiscal year the Revolving
5 Fund, Corps of Engineers, shall be available for purchase
6 (not to exceed 100 for replacement only) and hire of pas-
7 senger motor vehicles.

8 GENERAL PROVISIONS

9 CORPS OF ENGINEERS—CIVIL

10 SEC. 101. Agreements proposed for execution by the
11 Assistant Secretary of the Army for Civil Works or the
12 United States Army Corps of Engineers after the date of
13 the enactment of this Act pursuant to section 4 of the
14 Rivers and Harbor Act of 1915, Public Law 64–291; sec-
15 tion 11 of the River and Harbor Act of 1925, Public Law
16 68–585; the Civil Functions Appropriations Act, 1936,
17 Public Law 75–208; section 215 of the Flood Control Act
18 of 1968, as amended, Public Law 90–483; sections 104,
19 203, and 204 of the Water Resources Development Act
20 of 1986, as amended (Public Law 99–662); section 206
21 of the Water Resources Development Act of 1992, as
22 amended, Public Law 102–580; section 211 of the Water
23 Resources Development Act of 1996, Public Law 104–
24 303, and any other specific project authority, shall be lim-
25 ited to credits and reimbursements per project not to ex-

1 exceed \$10,000,000 in each fiscal year, and total credits and
 2 reimbursements for all applicable projects not to exceed
 3 \$50,000,000 in each fiscal year.

4 SEC. 102. ST. GEORGES BRIDGE, DELAWARE. None
 5 of the funds made available in this Act may be used to
 6 carry out any activity relating to closure or removal of
 7 the St. Georges Bridge across the Intracoastal Waterway,
 8 Delaware River to Chesapeake Bay, Delaware and Mary-
 9 land, including a hearing or any other activity relating to
 10 preparation of an environmental impact statement con-
 11 cerning the closure or removal.

12 SEC. 103. The Secretary may not expend funds to
 13 accelerate the schedule to finalize the Record of Decision
 14 for the revision of the Missouri River Master Water Con-
 15 trol Manual and any associated changes to the Missouri
 16 River Annual Operating Plan.

17 TITLE II

18 DEPARTMENT OF THE INTERIOR

19 CENTRAL UTAH PROJECT

20 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

21 For carrying out activities authorized by the Central
 22 Utah Project Completion Act, \$34,918,000, to remain
 23 available until expended, of which \$10,749,000 shall be
 24 deposited into the Utah Reclamation Mitigation and Con-
 25 servation Account of the Central Utah Project Completion

1 Act and shall be available to carry out activities authorized
2 under that Act.

3 In addition, for necessary expenses incurred in car-
4 rying out related responsibilities of the Secretary of the
5 Interior, \$1,310,000, to remain available until expended.

6 BUREAU OF RECLAMATION

7 The following appropriations shall be expended to
8 execute authorized functions of the Bureau of Reclama-
9 tion:

10 WATER AND RELATED RESOURCES

11 (INCLUDING TRANSFER OF FUNDS)

12 For management, development, and restoration of
13 water and related natural resources and for related activi-
14 ties, including the operation, maintenance and rehabilita-
15 tion of reclamation and other facilities, participation in
16 fulfilling related Federal responsibilities to Native Ameri-
17 cans, and related grants to, and cooperative and other
18 agreements with, State and local governments, Indian
19 tribes, and others, \$732,496,000, to remain available until
20 expended, of which \$14,649,000 shall be available for
21 transfer to the Upper Colorado River Basin Fund and
22 \$31,442,000 shall be available for transfer to the Lower
23 Colorado River Basin Development Fund; of which such
24 amounts as may be necessary may be advanced to the Col-
25 orado River Dam Fund; of which \$8,000,000 shall be for
26 on-reservation water development, feasibility studies, and

1 related administrative costs under Public Law 106–163;
2 of which not more than 25 percent of the amount provided
3 for drought emergency assistance may be used for finan-
4 cial assistance for the preparation of cooperative drought
5 contingency plans under title II of Public Law 102–250;
6 and of which not more than \$500,000 is for high priority
7 projects which shall be carried out by the Youth Conserva-
8 tion Corps, as authorized by 16 U.S.C. 1706: *Provided*,
9 That such transfers may be increased or decreased within
10 the overall appropriation under this heading: *Provided fur-*
11 *ther*, That of the total appropriated, the amount for pro-
12 gram activities that can be financed by the Reclamation
13 Fund or the Bureau of Reclamation special fee account
14 established by 16 U.S.C. 460l–6a(i) shall be derived from
15 that Fund or account: *Provided further*, That funds con-
16 tributed under 43 U.S.C. 395 are available until expended
17 for the purposes for which contributed: *Provided further*,
18 That funds advanced under 43 U.S.C. 397a shall be cred-
19 ited to this account and are available until expended for
20 the same purposes as the sums appropriated under this
21 heading: *Provided further*, That funds available for ex-
22 penditure for the Departmental Irrigation Drainage Pro-
23 gram may be expended by the Bureau of Reclamation for
24 site remediation on a non-reimbursable basis: *Provided*
25 *further*, That section 301 of Public Law 102–250, Rec-

1 lamation States Emergency Drought Relief Act of 1991,
 2 as amended, is amended further by inserting “2001, and
 3 2002” in lieu of “and 2001”: *Provided further*, That the
 4 amount authorized for Indian municipal, rural, and indus-
 5 trial water features by section 10 of Public Law 89–108,
 6 as amended by section 8 of Public Law 99–294, section
 7 1701(b) of Public Law 102–575, Public Law 105–245,
 8 and Public Law 106–60 is increased by \$2,000,000 (Octo-
 9 ber 1998 prices).

10 BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

11 For the cost of direct loans and/or grants,
 12 \$7,215,000, to remain available until expended, as author-
 13 ized by the Small Reclamation Projects Act of August 6,
 14 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That
 15 such costs, including the cost of modifying such loans,
 16 shall be as defined in section 502 of the Congressional
 17 Budget Act of 1974, as amended: *Provided further*, That
 18 these funds are available to subsidize gross obligations for
 19 the principal amount of direct loans not to exceed
 20 \$26,000,000.

21 In addition, for administrative expenses necessary to
 22 carry out the program for direct loans and/or grants,
 23 \$280,000, to remain available until expended: *Provided*,
 24 That of the total sums appropriated, the amount of pro-
 25 gram activities that can be financed by the Reclamation
 26 Fund shall be derived from that Fund.

1 CENTRAL VALLEY PROJECT RESTORATION FUND

2 For carrying out the programs, projects, plans, and
3 habitat restoration, improvement, and acquisition provi-
4 sions of the Central Valley Project Improvement Act,
5 \$55,039,000, to be derived from such sums as may be col-
6 lected in the Central Valley Project Restoration Fund pur-
7 suant to sections 3407(d), 3404(c)(3), 3405(f), and
8 3406(c)(1) of Public Law 102–575, to remain available
9 until expended: *Provided*, That the Bureau of Reclamation
10 is directed to assess and collect the full amount of the
11 additional mitigation and restoration payments authorized
12 by section 3407(d) of Public Law 102–575.

13 POLICY AND ADMINISTRATION

14 For necessary expenses of policy, administration, and
15 related functions in the office of the Commissioner, the
16 Denver office, and offices in the five regions of the Bureau
17 of Reclamation, to remain available until expended,
18 \$52,968,000, to be derived from the Reclamation Fund
19 and be nonreimbursable as provided in 43 U.S.C. 377:
20 *Provided*, That no part of any other appropriation in this
21 Act shall be available for activities or functions budgeted
22 as policy and administration expenses.

23 ADMINISTRATIVE PROVISION

24 Appropriations for the Bureau of Reclamation shall
25 be available for purchase of not to exceed four passenger
26 motor vehicles for replacement only.

1 GENERAL PROVISIONS

2 DEPARTMENT OF THE INTERIOR

3 SEC. 201. None of the funds appropriated or other-
4 wise made available by this or any other Act may be used
5 to pay the salaries and expenses of personnel to purchase
6 or lease water in the Middle Rio Grande or the Carlsbad
7 Projects in New Mexico unless said purchase or lease is
8 in compliance with the purchase requirements of section
9 202 of Public Law 106–60.

10 SEC. 202. Funds under this title for Drought Emer-
11 gency Assistance shall be made available primarily for
12 leasing of water for specified drought related purposes
13 from willing lessors, in compliance with existing State laws
14 and administered under State water priority allocation.
15 Such leases may be entered into with an option to pur-
16 chase: *Provided*, That such purchase is approved by the
17 State in which the purchase takes place and the purchase
18 does not cause economic harm within the State in which
19 the purchase is made.

20 SEC. 203. The Secretary of the Interior is authorized
21 and directed to use not to exceed \$1,000,000 of the funds
22 appropriated under title II to refund amounts received by
23 the United States as payments for charges assessed by
24 the Secretary prior to January 1, 1994 for failure to file
25 certain certification or reporting forms prior to the receipt

1 of irrigation water, pursuant to sections 206 and 224(c)
 2 of the Reclamation Reform Act of 1982 (96 Stat. 1226,
 3 1272; 43 U.S.C. 390ff, 390ww(c)), including the amount
 4 of associated interest assessed by the Secretary and paid
 5 to the United States pursuant to section 224(i) of the Rec-
 6 lamation Reform Act of 1982 (101 Stat. 1330–268; 43
 7 U.S.C. 390ww(i)).

8 TITLE III

9 DEPARTMENT OF ENERGY

10 ENERGY PROGRAMS

11 ENERGY SUPPLY

12 For Department of Energy expenses including the
 13 purchase, construction and acquisition of plant and capital
 14 equipment, and other expenses necessary for energy sup-
 15 ply, and uranium supply and enrichment activities in car-
 16 rying out the purposes of the Department of Energy Orga-
 17 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
 18 sition or condemnation of any real property or any facility
 19 or for plant or facility acquisition, construction, or expan-
 20 sion; and the purchase of not to exceed 17 passenger
 21 motor vehicles for replacement only, \$736,139,000 to re-
 22 main available until expended.

23 NON-DEFENSE ENVIRONMENTAL MANAGEMENT

24 For Department of Energy expenses, including the
 25 purchase, construction and acquisition of plant and capital

1 equipment and other expenses necessary for non-defense
 2 environmental management activities in carrying out the
 3 purposes of the Department of Energy Organization Act
 4 (42 U.S.C. 7101 et seq.), including the acquisition or con-
 5 demnation of any real property or any facility or for plant
 6 or facility acquisition, construction or expansion,
 7 \$228,553,000, to remain available until expended.

8 URANIUM FACILITIES MAINTENANCE AND REMEDIATION
 9 (INCLUDING TRANSFER OF FUNDS)

10 For necessary expenses to maintain, decontaminate,
 11 decommission, and otherwise remediate uranium proc-
 12 essing facilities, \$408,725,000, of which \$287,941,000
 13 shall be derived from the Uranium Enrichment Decon-
 14 tamination and Decommissioning Fund, all of which shall
 15 remain available until expended.

16 SCIENCE

17 For Department of Energy expenses including the
 18 purchase, construction and acquisition of plant and capital
 19 equipment, and other expenses necessary for science ac-
 20 tivities in carrying out the purposes of the Department
 21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
 22 cluding the acquisition or condemnation of any real prop-
 23 erty or facility or for plant or facility acquisition, construc-
 24 tion, or expansion, and purchase of not to exceed 25 pas-

1 senger motor vehicles for replacement only,
2 \$3,268,816,000, to remain available until expended.

3 NUCLEAR WASTE DISPOSAL

4 For nuclear waste disposal activities to carry out the
5 purposes of Public Law 97–425, as amended, including
6 the acquisition of real property or facility construction or
7 expansion, \$25,000,000, to remain available until ex-
8 pended and to be derived from the Nuclear Waste Fund:
9 *Provided*, That \$2,500,000 shall be provided to the State
10 of Nevada solely for expenditures, other than salaries and
11 expenses of State employees, to conduct scientific over-
12 sight responsibilities pursuant to the Nuclear Waste Policy
13 Act of 1982, Public Law 97–425, as amended: *Provided*
14 *further*, That \$6,000,000 shall be provided to affected
15 units of local governments, as defined in Public Law 97–
16 425, to conduct appropriate activities pursuant to the Act:
17 *Provided further*, That the distribution of the funds as de-
18 termined by the units of local government shall be ap-
19 proved by the Department of Energy: *Provided further*,
20 That the funds for the State of Nevada shall be made
21 available solely to the Nevada Division of Emergency Man-
22 agement by direct payment and units of local government
23 by direct payment: *Provided further*, That within 90 days
24 of the completion of each Federal fiscal year, the Nevada
25 Division of Emergency Management and the Governor of

1 the State of Nevada and each local entity shall provide
2 certification to the Department of Energy that all funds
3 expended from such payments have been expended for ac-
4 tivities authorized by Public Law 97–425 and this Act.
5 Failure to provide such certification shall cause such enti-
6 ty to be prohibited from any further funding provided for
7 similar activities: *Provided further*, That none of the funds
8 herein appropriated may be: (1) used directly or indirectly
9 to influence legislative action on any matter pending be-
10 fore Congress or a State legislature or for lobbying activity
11 as provided in 18 U.S.C. 1913; (2) used for litigation ex-
12 penses; or (3) used to support multi-State efforts or other
13 coalition building activities inconsistent with the restric-
14 tions contained in this Act: *Provided further*, That all pro-
15 ceeds and recoveries by the Secretary in carrying out ac-
16 tivities authorized by the Nuclear Waste Policy Act of
17 1982 in Public Law 97–425, as amended, including but
18 not limited to, any proceeds from the sale of assets, shall
19 be available without further appropriation and shall re-
20 main available until expended.

21 DEPARTMENTAL ADMINISTRATION

22 For salaries and expenses of the Department of En-
23 ergy necessary for departmental administration in car-
24 rying out the purposes of the Department of Energy Orga-
25 nization Act (42 U.S.C. 7101 et seq.), including the hire

1 of passenger motor vehicles and official reception and rep-
 2 resentation expenses (not to exceed \$35,000),
 3 \$208,948,000, to remain available until expended, plus
 4 such additional amounts as necessary to cover increases
 5 in the estimated amount of cost of work for others not-
 6 withstanding the provisions of the Anti-Deficiency Act (31
 7 U.S.C. 1511 et seq.): *Provided*, That such increases in cost
 8 of work are offset by revenue increases of the same or
 9 greater amount, to remain available until expended: *Pro-*
 10 *vided further*, That moneys received by the Department
 11 for miscellaneous revenues estimated to total
 12 \$137,810,000 in fiscal year 2002 may be retained and
 13 used for operating expenses within this account, and may
 14 remain available until expended, as authorized by section
 15 201 of Public Law 95–238, notwithstanding the provisions
 16 of 31 U.S.C. 3302: *Provided further*, That the sum herein
 17 appropriated shall be reduced by the amount of miscella-
 18 neous revenues received during fiscal year 2002 so as to
 19 result in a final fiscal year 2002 appropriation from the
 20 General Fund estimated at not more than \$71,138,000.

21 OFFICE OF THE INSPECTOR GENERAL

22 For necessary expenses of the Office of the Inspector
 23 General in carrying out the provisions of the Inspector
 24 General Act of 1978, as amended, \$30,000,000, to remain
 25 available until expended.

1 ATOMIC ENERGY DEFENSE ACTIVITIES

2 NATIONAL NUCLEAR SECURITY ADMINISTRATION

3 WEAPONS ACTIVITIES

4 For Department of Energy expenses, including the
5 purchase, construction and acquisition of plant and capital
6 equipment and other incidental expenses necessary for
7 atomic energy defense weapons activities in carrying out
8 the purposes of the Department of Energy Organization
9 Act (42 U.S.C. 7101 et seq.), including the acquisition or
10 condemnation of any real property or any facility or for
11 plant or facility acquisition, construction, or expansion;
12 and the purchase of passenger motor vehicles (not to ex-
13 ceed 11 for replacement only), \$6,062,891,000, to remain
14 available until expended.

15 DEFENSE NUCLEAR NONPROLIFERATION

16 For Department of Energy expenses, including the
17 purchase, construction and acquisition of plant and capital
18 equipment and other incidental expenses necessary for
19 atomic energy defense, Defense Nuclear Nonproliferation
20 activities, in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or any facility or for plant or facility acquisition, con-
24 struction, or expansion, \$880,500,000, to remain available
25 until expended: *Provided*, That not to exceed \$7,000 may
26 be used for official reception and representation expenses

1 for national security and nonproliferation (including trans-
 2 parency) activities in fiscal year 2002.

3 NAVAL REACTORS

4 For Department of Energy expenses necessary for
 5 naval reactors activities to carry out the Department of
 6 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
 7 ing the acquisition (by purchase, condemnation, construc-
 8 tion, or otherwise) of real property, plant, and capital
 9 equipment, facilities, and facility expansion,
 10 \$688,045,000, to remain available until expended.

11 OFFICE OF THE ADMINISTRATOR

12 For necessary expenses of the Office of the Adminis-
 13 trator of the National Nuclear Security Administration,
 14 including official reception and representation expenses
 15 (not to exceed \$15,000), \$15,000,000, to remain available
 16 until expended.

17 OTHER DEFENSE RELATED ACTIVITIES

18 DEFENSE ENVIRONMENTAL RESTORATION AND WASTE

19 MANAGEMENT

20 For Department of Energy expenses, including the
 21 purchase, construction and acquisition of plant and capital
 22 equipment and other expenses necessary for atomic energy
 23 defense environmental restoration and waste management
 24 activities in carrying out the purposes of the Department
 25 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
 26 cluding the acquisition or condemnation of any real prop-

erty or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of 30 passenger motor vehicles, of which shall be for replacement only, \$5,389,868,000, to remain available until expended.

DEFENSE FACILITIES CLOSURE PROJECTS

For expenses of the Department of Energy to accelerate the closure of defense environmental management sites, including the purchase, construction and acquisition of plant and capital equipment and other necessary expenses, \$1,080,538,000, to remain available until expended.

DEFENSE ENVIRONMENTAL MANAGEMENT

PRIVATIZATION

For Department of Energy expenses for privatization projects necessary for atomic energy defense environmental management activities authorized by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), \$157,537,000, to remain available until expended.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or con-

1 demnation of any real property or any facility or for plant
 2 or facility acquisition, construction, or expansion,
 3 \$564,168,000, to remain available until expended.

4 DEFENSE NUCLEAR WASTE DISPOSAL

5 For nuclear waste disposal activities to carry out the
 6 purposes of Public Law 97-425, as amended, including
 7 the acquisition of real property or facility construction or
 8 expansion, \$250,000,000, to remain available until ex-
 9 pended.

10 POWER MARKETING ADMINISTRATIONS

11 BONNEVILLE POWER ADMINISTRATION FUND

12 Expenditures from the Bonneville Power Administra-
 13 tion Fund, established pursuant to Public Law 93-454,
 14 are approved for official reception and representation ex-
 15 penses in an amount not to exceed \$1,500. For the pur-
 16 poses of appropriating funds to assist in financing the con-
 17 struction, acquisition, and replacement of the transmission
 18 system of the Bonneville Power Administration up to
 19 \$2,000,000,000 in borrowing authority is authorized to be
 20 appropriated, subject to subsequent annual appropria-
 21 tions, to remain outstanding at any given time: *Provided,*
 22 That the obligation of such borrowing authority shall not
 23 exceed \$0 in fiscal year 2002 and that the Bonneville
 24 Power Administration shall not obligate more than

1 \$374,500,000 of its permanent borrowing in fiscal year
2 2002.

3 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
4 ADMINISTRATION

5 For necessary expenses of operation and maintenance
6 of power transmission facilities and of marketing electric
7 power and energy, including transmission wheeling and
8 ancillary services, pursuant to the provisions of section 5
9 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
10 applied to the southeastern power area, \$4,891,000, to re-
11 main available until expended; in addition, notwith-
12 standing the provisions of 31 U.S.C. 3302, up to
13 \$8,000,000 collected by the Southeastern Power Adminis-
14 tration pursuant to the Flood Control Act to recover pur-
15 chase power and wheeling expenses shall be credited to
16 this account as offsetting collections, to remain available
17 until expended for the sole purpose of making purchase
18 power and wheeling expenditures.

19 OPERATION AND MAINTENANCE, SOUTHWESTERN
20 POWER ADMINISTRATION

21 For necessary expenses of operation and maintenance
22 of power transmission facilities and of marketing electric
23 power and energy, and for construction and acquisition of
24 transmission lines, substations and appurtenant facilities,
25 and for administrative expenses, including official recep-

tion and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$28,038,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed \$5,200,000 in reimbursements, to remain available until expended: *Provided*, That up to \$1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

CONSTRUCTION, REHABILITATION, OPERATION AND
MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, \$169,465,000, to remain available until expended, of which \$163,951,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$6,091,000 is for deposit into the Utah Rec-

1 lamation Mitigation and Conservation Account pursuant
 2 to title IV of the Reclamation Projects Authorization and
 3 Adjustment Act of 1992: *Provided further*, That up to
 4 \$152,624,000 collected by the Western Area Power Ad-
 5 ministration pursuant to the Flood Control Act of 1944
 6 and the Reclamation Project Act of 1939 to recover pur-
 7 chase power and wheeling expenses shall be credited to
 8 this account as offsetting collections, to remain available
 9 until expended for the sole purpose of making purchase
 10 power and wheeling expenditures.

11 FALCON AND AMISTAD OPERATING AND MAINTENANCE
 12 FUND

13 For operation, maintenance, and emergency costs for
 14 the hydroelectric facilities at the Falcon and Amistad
 15 Dams, \$2,663,000, to remain available until expended,
 16 and to be derived from the Falcon and Amistad Operating
 17 and Maintenance Fund of the Western Area Power Ad-
 18 ministration, as provided in section 423 of the Foreign
 19 Relations Authorization Act, Fiscal Years 1994 and 1995.

20 FEDERAL ENERGY REGULATORY COMMISSION
 21 SALARIES AND EXPENSES

22 For necessary expenses of the Federal Energy Regu-
 23 latory Commission to carry out the provisions of the De-
 24 partment of Energy Organization Act (42 U.S.C. 7101 et
 25 seq.), including services as authorized by 5 U.S.C. 3109,

1 the hire of passenger motor vehicles, and official reception
 2 and representation expenses (not to exceed \$3,000),
 3 \$181,155,000, to remain available until expended: *Pro-*
 4 *vided*, That notwithstanding any other provision of law,
 5 not to exceed \$181,155,000 of revenues from fees and an-
 6 nual charges, and other services and collections in fiscal
 7 year 2002 shall be retained and used for necessary ex-
 8 penses in this account, and shall remain available until
 9 expended: *Provided further*, That the sum herein appro-
 10 priated from the General Fund shall be reduced as reve-
 11 nues are received during fiscal year 2002 so as to result
 12 in a final fiscal year 2002 appropriation from the General
 13 Fund estimated at not more than \$0.

14 GENERAL PROVISIONS

15 DEPARTMENT OF ENERGY

16 SEC. 301. (a) None of the funds appropriated by this
 17 Act may be used to award a management and operating
 18 contract unless such contract is awarded using competitive
 19 procedures or the Secretary of Energy grants, on a case-
 20 by-case basis, a waiver to allow for such a deviation. The
 21 Secretary may not delegate the authority to grant such
 22 a waiver.

23 (b) At least 60 days before a contract award, amend-
 24 ment, or modification for which the Secretary intends to
 25 grant such a waiver, the Secretary shall submit to the

1 Subcommittees on Energy and Water Development of the
2 Committees on Appropriations of the House of Represent-
3 atives and the Senate a report notifying the subcommit-
4 tees of the waiver and setting forth the reasons for the
5 waiver.

6 SEC. 302. None of the funds appropriated by this Act
7 may be used to—

8 (1) develop or implement a workforce restruc-
9 turing plan that covers employees of the Department
10 of Energy; or

11 (2) provide enhanced severance payments or
12 other benefits for employees of the Department of
13 Energy,

14 under section 3161 of the National Defense Authorization
15 Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat.
16 2644; 42 U.S.C. 7274h).

17 SEC. 303. None of the funds appropriated by this Act
18 may be used to augment the \$20,000,000 made available
19 for obligation by this Act for severance payments and
20 other benefits and community assistance grants under sec-
21 tion 3161 of the National Defense Authorization Act for
22 Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644;
23 42 U.S.C. 7274h) unless the Department of Energy sub-
24 mits a reprogramming request subject to approval by the
25 appropriate Congressional committees.

1 SEC. 304. None of the funds appropriated by this Act
2 may be used to prepare or initiate Requests For Proposals
3 (RFPs) for a program if the program has not been funded
4 by Congress.

5 (TRANSFERS OF UNEXPENDED BALANCES)

6 SEC. 305. The unexpended balances of prior appro-
7 priations provided for activities in this Act may be trans-
8 ferred to appropriation accounts for such activities estab-
9 lished pursuant to this title. Balances so transferred may
10 be merged with funds in the applicable established ac-
11 counts and thereafter may be accounted for as one fund
12 for the same time period as originally enacted.

13 SEC. 306. Of the funds in this Act or any other Act
14 provided to government-owned, contractor-operated lab-
15 oratories, not to exceed 6 percent shall be available to be
16 used for Laboratory Directed Research and Development.

17 SEC. 307. None of the funds in this Act may be used
18 to dispose of transuranic waste in the Waste Isolation
19 Pilot Plant which contains concentrations of plutonium in
20 excess of 20 percent by weight for the aggregate of any
21 material category on the date of enactment of this Act,
22 or is generated after such date. For the purposes of this
23 section, the material categories of transuranic waste at the
24 Rocky Flats Environmental Technology Site include: (1)
25 ash residues; (2) salt residues; (3) wet residues; (4) direct
26 repackaging residues; and (5) scrub alloy as referenced in

1 the “Final Environmental Impact Statement on Manage-
2 ment of Certain Plutonium Residues and Scrub Alloy
3 Stored at the Rocky Flats Environmental Technology
4 Site”.

5 SEC. 308. The Administrator of the National Nuclear
6 Security Administration may authorize the plant manager
7 of a covered nuclear weapons production plant to engage
8 in research, development, and demonstration activities
9 with respect to the engineering and manufacturing capa-
10 bilities at such plant in order to maintain and enhance
11 such capabilities at such plant: *Provided*, That of the
12 amount allocated to a covered nuclear weapons production
13 plant each fiscal year from amounts available to the De-
14 partment of Energy for such fiscal year for national secu-
15 rity programs, not more than an amount equal to 2 per-
16 cent of such amount may be used for these activities: *Pro-*
17 *vided further*, That for purposes of this section, the term
18 “covered nuclear weapons production plant” means the
19 following:

20 (1) The Kansas City Plant, Kansas City, Mis-
21 souri.

22 (2) The Y-12 Plant, Oak Ridge, Tennessee.

23 (3) The Pantex Plant, Amarillo, Texas.

24 (4) The Savannah River Plant, South Carolina.

1 SEC. 309. Notwithstanding any other law, and with-
 2 out fiscal year limitation, each Federal Power Marketing
 3 Administration is authorized to engage in activities and
 4 solicit, undertake and review studies and proposals relat-
 5 ing to the formation and operation of a regional trans-
 6 mission organization.

7 SEC. 310. The Administrator of the National Nuclear
 8 Security Administration may authorize the manager of the
 9 Nevada Operations Office to engage in research, develop-
 10 ment, and demonstration activities with respect to the de-
 11 velopment, test, and evaluation capabilities necessary for
 12 operations and readiness of the Nevada Test Site: *Pro-*
 13 *vided*, That of the amount allocated to the Nevada Oper-
 14 ations Office each fiscal year from amounts available to
 15 the Department of Energy for such fiscal year for national
 16 security programs at the Nevada Test Site, not more than
 17 an amount equal to 2 percent of such amount may be used
 18 for these activities.

19 SEC. 311. DEPLETED URANIUM HEXAFLUORIDE.
 20 Section 1 of Public Law 105–204 is amended in sub-
 21 section (b)—

22 (1) by inserting “except as provided in sub-
 23 section (c),” after “1321–349),”; and

24 (2) by striking “fiscal year 2002” and inserting
 25 “fiscal year 2005”.

1 TITLE IV
2 INDEPENDENT AGENCIES
3 APPALACHIAN REGIONAL COMMISSION

4 For expenses necessary to carry out the programs au-
5 thorized by the Appalachian Regional Development Act of
6 1965, as amended, notwithstanding section 405 of said
7 Act and for necessary expenses for the Federal Co-Chair-
8 man and the alternate on the Appalachian Regional Com-
9 mission, for payment of the Federal share of the adminis-
10 trative expenses of the Commission, including services as
11 authorized by 5 U.S.C. 3109, and hire of passenger motor
12 vehicles, \$66,290,000, to remain available until expended.

13 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
14 SALARIES AND EXPENSES

15 For necessary expenses of the Defense Nuclear Fa-
16 cilities Safety Board in carrying out activities authorized
17 by the Atomic Energy Act of 1954, as amended by Public
18 Law 100–456, section 1441, \$18,500,000, to remain
19 available until expended.

20 DELTA REGIONAL AUTHORITY
21 SALARIES AND EXPENSES

22 For necessary expenses of the Delta Regional Author-
23 ity and to carry out its activities, as authorized by the
24 Delta Regional Authority Act of 2000, \$20,000,000, to re-
25 main available until expended.

1 DENALI COMMISSION

2 For expenses of the Denali Commission including the
3 purchase, construction and acquisition of plant and capital
4 equipment as necessary and other expenses, \$40,000,000,
5 to remain available until expended.

6 NUCLEAR REGULATORY COMMISSION

7 SALARIES AND EXPENSES

8 For necessary expenses of the Commission in car-
9 rying out the purposes of the Energy Reorganization Act
10 of 1974, as amended, and the Atomic Energy Act of 1954,
11 as amended, including official representation expenses
12 (not to exceed \$15,000), and purchase of promotional
13 items for use in the recruitment of individuals for employ-
14 ment, \$516,900,000, to remain available until expended:
15 *Provided*, That of the amount appropriated herein,
16 \$23,650,000 shall be derived from the Nuclear Waste
17 Fund: *Provided further*, That revenues from licensing fees,
18 inspection services, and other services and collections esti-
19 mated at \$468,248,000 in fiscal year 2002 shall be re-
20 tained and used for necessary salaries and expenses in this
21 account, notwithstanding 31 U.S.C. 3302, and shall re-
22 main available until expended: *Provided further*, That,
23 \$700,000 of the funds herein appropriated for regulatory
24 reviews and other assistance to Federal agencies and
25 States shall be excluded from license fee revenues, not-

1 withstanding 42 U.S.C. 2214: *Provided further*, That the
 2 sum herein appropriated shall be reduced by the amount
 3 of revenues received during fiscal year 2002 so as to result
 4 in a final fiscal year 2002 appropriation estimated at not
 5 more than \$43,652,000: *Provided further*, That, notwith-
 6 standing any other provision of law, no funds made avail-
 7 able under this or any other Act may be expended by the
 8 Commission to implement or enforce 10 C.F.R. Part 35,
 9 as adopted by the Commission on October 23, 2000.

10 OFFICE OF INSPECTOR GENERAL

11 For necessary expenses of the Office of Inspector
 12 General in carrying out the provisions of the Inspector
 13 General Act of 1978, as amended, \$5,500,000, to remain
 14 available until expended: *Provided*, That revenues from li-
 15 censing fees, inspection services, and other services and
 16 collections estimated at \$5,432,000 in fiscal year 2002
 17 shall be retained and be available until expended, for nec-
 18 essary salaries and expenses in this account notwith-
 19 standing 31 U.S.C. 3302: *Provided further*, That the sum
 20 herein appropriated shall be reduced by the amount of rev-
 21 enues received during fiscal year 2002 so as to result in
 22 a final fiscal year 2002 appropriation estimated at not
 23 more than \$68,000.

1 NUCLEAR WASTE TECHNICAL REVIEW BOARD

2 SALARIES AND EXPENSES

3 For necessary expenses of the Nuclear Waste Tech-
4 nical Review Board, as authorized by Public Law 100–
5 203, section 5051, \$3,500,000, to be derived from the Nu-
6 clear Waste Fund, and to remain available until expended.

7 TITLE V

8 GENERAL PROVISIONS

9 SEC. 501. None of the funds appropriated by this Act
10 may be used in any way, directly or indirectly, to influence
11 congressional action on any legislation or appropriation
12 matters pending before Congress, other than to commu-
13 nicate to Members of Congress as described in section
14 1913 of title 18, United States Code.

15 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
16 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
17 gress that, to the greatest extent practicable, all equip-
18 ment and products purchased with funds made available
19 in this Act should be American-made.

20 (b) NOTICE REQUIREMENT.—In providing financial
21 assistance to, or entering into any contract with, any enti-
22 ty using funds made available in this Act, the head of each
23 Federal agency, to the greatest extent practicable, shall
24 provide to such entity a notice describing the statement
25 made in subsection (a) by the Congress.

1 (c) PROHIBITION OF CONTRACTS WITH PERSONS

2 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—

3 If it has been finally determined by a court or Federal
4 agency that any person intentionally affixed a label bear-
5 ing a “Made in America” inscription, or any inscription
6 with the same meaning, to any product sold in or shipped
7 to the United States that is not made in the United
8 States, the person shall be ineligible to receive any con-
9 tract or subcontract made with funds made available in
10 this Act, pursuant to the debarment, suspension, and ineli-
11 gibility procedures described in sections 9.400 through
12 9.409 of title 48, Code of Federal Regulations.

13 This Act may be cited as the “Energy and Water De-
14 velopment Appropriations Act, 2002”.

Calendar No. 79

107TH CONGRESS
1ST SESSION

S. 1171

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

JULY 12, 2001

Read twice and placed on the calendar